

**Before the
New Hampshire Real Estate Commission
Concord, New Hampshire 03301**

In The Matter Of:

Docket No.: 2012-024

**New Hampshire Real Estate Commission v. Elaine A. Mahoney & New
Hampshire Metropolitan School of Real Estate, LLC
Provider No.: 0541
Course Accreditation No.: P048
(Adjudicatory/Disciplinary Proceeding)**

FINAL DECISION AND ORDER

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Elaine A. Mahoney ("Respondent Mahoney" or "Ms. Mahoney") & New Hampshire Metropolitan School of Real Estate, LLC ("Respondent NH Metropolitan School of Real Estate") in Docket Number 2012-024.

Background Information:

On April 17, 2012, the Commission accredited the pre-licensing course for New Hampshire Metropolitan School of Real Estate, LLC to be taught by approved instructors Elaine Mahoney and William Weidacher and requested Frances West, the Commission's Education Program Assistant to monitor Ms. Mahoney's classes and/or request video recordings of her teaching the course. Ms. West monitored Ms. Mahoney's classes held on May 21, 2012 and June 18, 2012, and requested Ms. Mahoney to furnish video recordings of the remaining classes of the course. Ms. West reviewed video recordings of classes held on July 2, 2012 and July 5, 2012. Through monitoring Ms. Mahoney's classes and reviewing her video recordings, Ms. West found that Ms. Mahoney demonstrated a lack of knowledge about the subject matter including misinformation, a lack of explanation of material, inability to teach material in a relevant manner, excessively reading directly from the book, and promoting and allowing exorbitant amounts of inappropriate discussion unrelated to the curriculum or subject matter of the accredited course. On July 16, 2012, the Commission's Investigator Ann Flanagan initiated Complaint File No. 2012-024 against Respondents Elaine Mahoney and the New Hampshire Metropolitan School of Real Estate, LLC. Subsequent to an

investigation, on October 29, 2012, the Commission issued a Notice of Hearing for a hearing scheduled for December 11, 2012.

On Tuesday, December 11, 2012, at 9:47 a.m., the Commission commenced the adjudicatory/ disciplinary hearing in the above captioned matter. Commission members present¹ were:

David C. Dunn, Commissioner, Presiding Officer
William E. Barry, Commissioner
Paul A. Lipnick, Commissioner
James R. Therrien, Commissioner

Ann Flanagan, the Commission's Investigator served as prosecutor. Ms. Mahoney was present and represented by Attorney Matthew R. Johnson.

The following exhibits were introduced into evidence and accepted into the record:

- Complainant Investigator Flanagan's Exhibits:
Exhibit #1 - Complaint File 2012-024: pages 1-29 and Video Recordings of July 2, 2012 and July 5, 2012.
Exhibit #2 – October 16, 2012 video recording with specified segments alleging to demonstrate Ms. Mahoney's continued teaching of inaccurate material, lack of knowledge of the subject matter, and lack of improvement in her teaching ability, submitted by Fran West: pages 1-2.
- The Respondent's exhibits:
Exhibit A – Video Recording of Ms. Mahoney's class on October 16, 2012 with specified segments of the recording alleging to demonstrate Ms. Mahoney's improvement in teaching style.

The following witnesses were present and testified at the hearing:

- Frances West, Education Program Assistant of the NH Real Estate Commission

¹ These same Commission members also deliberated and voted on this Final Decision and Order.

Findings of Fact:

In light of the testimony and exhibits, the Commission finds the following facts:

1. Respondent Mahoney was approved by the Commission as a pre-licensing instructor on December 20, 2011. The Commission accredited the pre-licensing course for the New Hampshire Metropolitan School of Real Estate, LLC on April 17, 2012 through April 17, 2013 with Provider Code Number 0541 and Course Number P048.

2. At the hearing, Attorney Johnson, on behalf of his client Respondent Mahoney, presented a proposal that he stated would resolve the issues in the complaint. Respondent Mahoney proposed to continue to improve as a pre-licensing instructor in the following: substantive areas, finance related topics, and the art of being an instructor. If Respondent Mahoney is allowed to continue to teach, prior to the start of her January 2013 class, she would commit to the following steps: Respondent Mahoney would investigate continuing education online courses; meet with Attorney Johnson for however long it takes to go over the substance of the pre-licensing course she is teaching, meet with Barbara Cunningham for training of the financing aspect of the course, and enlist Roger Turcotte to train Respondent Mahoney to improve her skills as a presenter and be a more effective teacher; and include a power point presentation in her pre-licensing courses. Respondent Mahoney stated that Barbara Cunningham has agreed to teach the finance portion of her course starting in January 2013, and Ms. Mahoney would be in attendance learning from Ms. Cunningham.

3. Investigator Flanagan expressed her concern with the amount of material Ms. Mahoney would have to cover and learn, including finance and math, in a short time period before the start of her class in January 2013.

4. Investigator Flanagan stated her concerns with Ms. Mahoney teaching inaccurate information to her students, and those students going out into the real estate industry practicing with incorrect information to the detriment of the public.

5. Ms. West testified at the hearing that she has concerns about the students receiving inaccurate information. Ms. West stated that an objective of Commission accreditation is to have instructors who are ready and able to teach and not to provide accreditation so that the instructor can learn to teach at the expense of the student.

Relevant Law:

331-A:20, V. Any individual, institution, or organization offering a preparatory or continuing education program who commits any of the following acts, conduct, or practices shall, after a hearing under RSA 331-A:30, be subject to disciplinary action as provided in RSA 331-A:28:

(b). – Violating any of the provision of this chapter, or any rules adopted or order issued pursuant to this chapter.

(e). – Offering or providing a course with curriculum or subject matter which is not the curriculum or subject matter submitted for accreditation.

(f). – Engaging in conduct which demonstrates incompetence.

(h). – Providing outdated, inappropriate, or inaccurate teaching materials or information.

(i). – Receiving poor student evaluations or commission audits.

(k). – Demonstrating unprofessional conduct as defined by RSA 331-A:2, XV, or, when presenting a course to licensees or potential licensees, engaging in inappropriate conduct.

Rea 302.01(b)(3).

(b) All individuals applying for accreditation as a pre-licensing education instructor shall demonstrate the following:

(3) Demonstration of subject matter knowledge before the commission as necessary to substantiate the qualifications or information submitted, pursuant to Rea 302.01(a).

Rulings of Law:

The Commission makes the following findings by a preponderance of the evidence:

1. Respondent Mahoney should have been taking measures before she taught her first class, not just after she was found to be lacking knowledge and teaching skills, and there has been no effort by Ms. Mahoney to improve. Respondent Mahoney was found to have demonstrated a lack of knowledge about the subject matter including misinformation, a lack of explanation of material, inability to teach material in a relevant manner, excessively reading directly from the book, and promoting and allowing exorbitant amounts of inappropriate discussion unrelated to the curriculum or

subject matter of the accredited course, in violation of RSA 331-A:20, V (b), (e), (f), (h), (i), (k), and Rea 302.01(b)(3).

Disciplinary Action:

Based upon the Findings of Facts and Rulings of Law above, the Commission has voted to order the following:

IT IS **ORDERED** that the approval of Respondent Mahoney as a pre-licensing instructor and the course accreditation for Respondent NH Metropolitan School of Real Estate be revoked. The revocation of the instructor approval of Respondent Mahoney and the course accreditation for New Hampshire Metropolitan School of Real Estate, LLC, Provider No. 0541 and Course No. P048 shall be effective on the date of this Order. Respondents Mahoney and NH Metropolitan School of Real Estate may re-apply for accreditation by demonstrating to the Commission, the qualifications required by Rea 302.01.

IT IS **FURTHER ORDERED** that the Respondents' failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 331-A:26, XXIX, and a separate and sufficient basis for further disciplinary action by the Commission against the Respondents.

IT IS **FURTHER ORDERED** that this Final Decision and Order shall become a permanent part of the Respondents' disciplinary file, which is maintained by the Commission as a public document.

IT IS **FURTHER ORDERED** that if this decision is not appealed within 30 days of the effective date, it shall become final. See RSA 331-A:28, III ("The action of the commission in revoking, suspending, or denying a license or accreditation, or levying a fine, shall be subject to appeal to the superior court at the instance of the licensee or an accredited individual, institution, or organization, within 30 days after the filing of the commission's decision...").

IT IS **FURTHER ORDERED** that this Final Decision and Order shall take effect as an Order of the Commission on the date the Commission signs it.

David C. Dunn
David C. Dunn, Presiding Officer

1/15/2013
Date

William E. Barry
William E. Barry, Commissioner

01-15-2013
Date

Paul A. Lipnick
Paul A. Lipnick, Commissioner

01-15-2013
Date

James R. Therrien
James R. Therrien, Commissioner

01-15-2013
Date

*\ Daniel S. Jones, Commission member, (case evaluator) recused.